

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 05-677 (JRT/FLN)

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	REPORT & RECOMMENDATION
)	
v.)	
)	
ONE 2001 CHEVROLET SUBURBAN,)	
)	
Defendant.)	

The above captioned case is before the Court upon a referral dated May 10, 2006, from the Honorable John R. Tunheim. Based upon all of the files, records and proceedings herein, the Court makes the following Findings of Fact and Recommendation.

FINDINGS OF FACT

1. This is a forfeiture action brought pursuant to 21 U.S.C. §§ 881(a)(4) and (a)(6).

2. The Plaintiff is the United States.

3. The Defendant is one 2001 Chevrolet Suburban, VIN 3GNGK26GX1G246003.

4. On April 4, 2005, Plaintiff filed a Verified Complaint for Forfeiture *In Rem* with supporting Affidavit alleging that the Defendant is subject to forfeiture pursuant to 21 U.S.C. §§ 881(a)(4) and (a)(6).

5. A Warrant of Arrest and Notice *In Rem* was issued by

the Clerk of Court to the United States Marshal on April 4, 2005, directing the United States Marshal to arrest the Defendant and to serve all known persons and entities having an interest in the Defendant with a copy of the Summons, Complaint for Forfeiture *In Rem*, and Warrant of Arrest and Notice *In Rem*.

6. On May 13, 2005, the Defendant 2001 Chevrolet Suburban, VIN 3GNGK26GX1G246003, was arrested by the U.S. Marshals Service.

7. On July 27, 2005, Travis Todd Smith was served through attorney Craig Cascarano with a copy of the Summons, Complaint For Forfeiture *In Rem*, and Warrant Of Arrest And Notice *In Rem*.

8. On July 27, 2005, Norene Dooley was personally served with a copy of the Summons, Complaint For Forfeiture *In Rem*, and Warrant Of Arrest And Notice *In Rem*.

9. On August 25, September 1, and September 8, 2005, notice of this forfeiture action against the Defendant was published by the United States Attorney's Office in *Finance and Commerce*, Minneapolis, Minnesota, a newspaper of general circulation in the District of Minnesota, giving notice of this forfeiture action to all unknown interested persons and

entities who may have an interest in the Defendant vehicle.

10. No verified statement of interest in the Defendant or Answer to the Complaint for Forfeiture *In Rem* has been filed with the Clerk of Court or served upon the United States, and the time for filing a verified statement and answer under 18 U.S.C. § 983(a)(4) has expired.

11. On June 6, 2005, Travis Todd Smith entered a guilty plea in *United States v. Travis Todd Smith*, Criminal No. 04-368 (JRT/FLN). Travis Todd Smith agreed, as part of his Plea Agreement in *United States v. Travis Todd Smith*, Criminal No. 04-368 (JRT/FLN), to the forfeiture of the Defendant.

12. On January 23, 2006, a Consent To Default Judgment And Forfeiture was filed in this action wherein Norene Lavonne Dooley consented to the entry of default judgment against her in this action, and consented to the entry of a final order of forfeiture forfeiting the Defendant 2001 Chevrolet Suburban to the United States free and clear of any and all claims by her.

13. On January 23, 2006, the United States filed an application with the Clerk of Court for entry of default against Travis Todd Smith and all unknown persons and entities having an interest in the Defendant for failure to file a claim and answer or otherwise defend in this action within the

time permitted by Rule C(6) of the Supplemental Rules of Certain Admiralty and Maritime Claims and 18 U.S.C. § 983(a)(4)(A) and (B), and seeking entry of default against Norene Lavonne Dooley pursuant to the Consent to Default Judgment and Forfeiture.

14. On January 24, 2006, the Clerk of Court made Entry of Default against the Defendant.

RECOMMENDATION

Pursuant to Fed. R. Civ. P. 55, a default judgment should be entered against Travis Todd Smith, Norene Lavonne Dooley, and all unknown persons and entities have an interest in the 2001 Chevrolet Suburban.

A Final Order Of Forfeiture should be entered forfeiting the Defendant 2001 Chevrolet Suburban to the Plaintiff pursuant to 21 U.S.C. §§ 881(a)(4) and (6), for disposition in accordance with law.

DATED: May 25, 2006.

s/ Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **June 14, 2006**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under the rules shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made.

This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.